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Official Records

27th plenary meeting
Friday, 8 October 2010, 10 a.m.
New York

President: Mr. Deiss ..... (Switzerland)

In the absence of the President, Mr. Ndong Mba (Equatorial Guinea), Vice-President, took the Chair.

The meeting was called to order at 10.10 a.m.

Agenda item 133

Scale of assessments for the apportionment of the expenses of the United Nations

Report of the Fifth Committee (A/65/492)

The Acting President (*spoke in Spanish*): If there is no proposal under rule 66 of the rules of procedure, may I take it that the Assembly decides not to discuss the report of the Fifth Committee that is before it?

It was so decided.

The Acting President (*spoke in Spanish*): Statements will therefore be limited to explanations of vote. The positions of delegations regarding the recommendation of the Fifth Committee have been made clear in the Committee and are reflected in the relevant official records.

I remind members that, under paragraph 7 of decision 34/401, the General Assembly agreed that when the same draft resolution is considered in a Main Committee and in plenary meeting a delegation should, as far as possible, explain its vote only once, either in the Committee or in the plenary meeting, unless that delegation's vote in plenary meeting is different from its vote in the Committee. I remind delegations that, also in accordance with General Assembly decision 34/401, explanations of vote are limited to 10 minutes.

Before we begin to take action on the recommendation contained in the report, I should like to inform representatives that we are going to proceed to take a decision in the same manner as in the Fifth Committee.

The Assembly will now take a decision on the draft resolution recommended by the Fifth Committee in paragraph 6 of its report. The Committee adopted the draft resolution, entitled "Scale of assessments for the apportionment of the expenses of the United Nations: requests under Article 19 of the Charter", without a vote. May I take it that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 65/3).

The Acting President (*spoke in Spanish*): The Assembly has thus concluded this stage of its consideration of agenda item 133.

Agenda items 71 and 72

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

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Note by the Secretary-General (A/65/188)

Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Note by the Secretary-General (A/65/205)

The Acting President (*spoke in Spanish*): May I take it that it is the wish of the Assembly to take note of the fifteenth annual report of the International Criminal Tribunal for Rwanda?

It was so decided.

The Acting President (*spoke in Spanish*): May I take it that it is the wish of the Assembly to take note of the seventeenth annual report of the International Tribunal for the Former Yugoslavia?

It was so decided.

The Acting President (*spoke in Spanish*): I call on Mr. Dennis Byron, President of the International Tribunal for Rwanda.

Mr. Byron: It is a great honour for me to address the members of the General Assembly today and to present the fifteenth annual report of the International Criminal Tribunal for Rwanda (A/65/188). Let me commence by extending my congratulations and best wishes to His Excellency Joseph Deiss of Switzerland on his election to the presidency of the Assembly.

In Arusha and The Hague, we have a year of hard work behind us, but I am pleased to report significant progress in the completion of our mandate as a result. We have been able to achieve that progress despite major obstacles, in particular with regard to staffing.

Over the last year, the Tribunal was highly productive in the delivery of judgements. The Chambers rendered seven trial and four appeal judgements during the reporting period — that is, from July 2009 to June 2010 — and an additional trial judgement was delivered in August. We expect three more trial judgements and up to four more appeal judgements before the end of this year.

In addition to the judgements, the Trial and Appeals Chambers issued almost 400 written and numerous oral decisions and orders. The delivery of the judgements in all the ongoing or commencing cases at trial level is expected before the end of 2011.

The workload is high and is shared equally among the permanent and ad litem judges in the Trial Chambers. I have raised the issue of the inequality of their terms and conditions of service with the Assembly before. It is a major concern for the Tribunal. The work and the commitment of the ad litem judges have been and continue to be indispensable to the successful and timely completion of our work. Without them, we could not have achieved what we did.

We very much welcome the resolution of March 2010 to resolve the issue as a priority of the General Assembly at the main part of its sixty-fifth session (resolution 64/261). While that issue will soon be before the Fifth Committee, I ask members and their Governments for support in the matter to provide for equity and to ensure that the work of the Tribunal can be successfully completed.

Like every other court, national or international, the Tribunal's achievements will ultimately be judged on the quality of its trials and judgements and on the efficiency of its judicial management. We continue to work hard with respect to both aspects, but in all our efforts we face one main stumbling block — the staffing situation. We continue to lose many of our best and most experienced staff members. One hundred and sixty-seven staff members left the Tribunal during the reporting period. They often leave for other institutions in the same field, where they can obtain longer-term contracts.

In Chambers, to give an example, three of the four multi-accused cases have lost their coordinators over the past few months, just a couple of months ahead of the expected judgement delivery. It is almost unavoidable that such departures, with their consequent loss of institutional memory, result in delays in the judgement drafting process. We cannot replace those staff members easily. We face difficulties attracting a sufficient number of good candidates with what we can offer, which is mostly temporary contracts. That is particularly relevant for the higher ranks of P-4 and P-5 positions. The remaining staff face the uncertainty of their professional future, which affects their morale and productivity.

Let me now turn to the issue of fugitives. The Office of the Prosecutor and its tracking team, in cooperation with the national authorities, were able to ensure the arrest of one fugitive — Jean Bosco Uwinkindi — in Uganda. His case is one of those

earmarked for referral to a national jurisdiction. While several options of possible referral countries are being explored, the focus remains on Rwanda. The support activities conducted by the Tribunal continue to further strengthen the Rwandan judiciary, in particular with respect to witness protection.

The number of remaining fugitives is now down to 10. That number still includes three of the most high-ranked accused: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. I therefore reiterate the call to all States, especially the States of the Great Lakes region, in particular Kenya, to intensify cooperation with the Tribunal and to render all necessary assistance so that their arrest can be ensured soon. Over 16 years have passed. We cannot wait any longer for justice to be done. We must not give the fatal signal to alleged perpetrators that their successful hiding for 16 years will ultimately be rewarded with impunity.

One focus of the work of the Registrar is the search for countries to relocate acquitted persons and those who have served their sentences. Currently, three such persons remain in safe houses in Arusha. One has been there for over four years. We must be aware that a full commitment to the rule of law includes the acceptance that those who have been lawfully acquitted or who have completed their sentence need to be enabled to recommence their life as free persons. I appeal for the support of Member Governments to make that possible.

The cooperation between States and the Tribunal is a two-way street. Over the past year, the Office of the Prosecutor has responded to over 100 requests for mutual legal assistance in connection with proceedings that national prosecuting authorities are conducting in relation to crimes committed in Rwanda in 1994. The number of such requests continues to increase and the services of the Tribunal to national prosecuting authorities become more and more important, as it is they who will bear the burden of continuing the fight against impunity after the Tribunal has closed down. We therefore have to ensure that the residual mechanism will be in a position to continue with that essential support.

The Tribunal has submitted its revised estimates for the rest of the 2010-2011 biennium. Despite some delays, the progress seen in our completion strategy is significant and the downsizing process is ongoing. Therefore, I am convinced that what we have achieved so far will give the Assembly the confidence and the trust to provide us with the necessary resources to complete our mandate expeditiously during this and the next biennium.

The Security Council continues its discussions on the structure and functioning of the residual mechanism for our Tribunal and our sister Tribunal in The Hague. A resolution on that issue in the near future will help us in preparing in the best possible manner for a timely and smooth transition to that residual mechanism. The preparatory work is time- and resource-intensive, in particular with respect to the archives of the Tribunal. They will document our legacy and will form part of the historical memory for the Rwandans and indeed for the entire international community. We have to ensure that they will be easily accessible in the future for all those who may be interested, the general public and researchers.

I should like to conclude by once again thanking Member Governments for the support they have provided to the Tribunal over the past years. The Assembly has walked this path with us for over 15 years, and we need its support in the last laps of this journey, in the interest of the victims and of international justice. We strive to earn that support with our unceasing committed efforts.

The Acting President (*spoke in Spanish*): On behalf of the General Assembly, I thank the President of the International Criminal Tribunal for Rwanda.

I now call on Mr. Patrick Lipton Robinson, President of the International Tribunal for the Former Yugoslavia.

Mr. Robinson: At the outset, I wish to congratulate the President on his assumption of the presidency of the General Assembly and to express my gratitude for his country's steadfast support for the work of the International Criminal Tribunal for the former Yugoslavia.

It is an honour to appear before the Assembly today in my capacity as President of the Tribunal and to present the Tribunal's seventeenth annual report (A/65/205) to the General Assembly.

During the reporting period, the Tribunal faced unprecedented challenges but also made unprecedented advances in the implementation of its completion strategy.

Ten trials were conducted simultaneously in the Tribunal's three courtrooms, and the second of the Tribunal's three multiaccused trials, *Prosecutor v. Popović et al.*, was brought to a close. The Tribunal has succeeded in conducting proceedings in 10 trials concurrently by doubling up judges and staff so that they are working on more than one case. In addition, the Tribunal also handled three contempt cases, disposing of two.

Currently there are nine trials ongoing, with a tenth case being returned to the pretrial stage following the Appeals Chamber's decision to grant the Prosecution's request for a retrial in the case of *Haradinaj et al.* It is anticipated that the *Haradinaj* retrial will commence in the new year.

Judgements are anticipated to be delivered in the *Đorđević* trial next month and in the *Gotovina et al.* trial the following month. An additional two trials — that of *Perišić* and the final multiaccused case of *Prlić et al.* — will conclude in 2011. Five trials, including the *Haradinaj* retrial, are anticipated to conclude in 2012, and the final case, that of *Karadžić*, should be completed towards the end of 2013.

All appeals are still scheduled to be completed by the end of 2014, although the recent unavoidable delays in the *Karadžić* case suggest that that date has become exceedingly optimistic and will have to be reassessed at an appropriate time.

In total, the Tribunal has completed proceedings in relation to 126 persons overall, with 13 cases remaining to be completed.

The Tribunal continues to take all measures possible to expedite its trials, without sacrificing due process. However, as these anticipated completion dates show, the estimates for the completion of trials from the last reporting period have had to be substantially amended. That is the result of unforeseen factors not immediately within the Tribunal's control, including witness intimidation, failure of witnesses to appear, illness of accused, the complexities associated with cases of self-represented accused, and staff attrition. Those factors are fully detailed in my report to the Security Council of May 2010 (S/2010/270, annex I).

It must be underscored that the trial schedule produced by the Tribunal is a forecast only and is estimated by reference to factors identified as falling within the Tribunal's control. But there are important influences on the trial schedule that are not within the Tribunal's control.

To give but one example, earlier this year the national authorities of Serbia discovered new evidence relevant to at least six of the Tribunal's cases, namely 18 military notebooks of Ratko Mladić allegedly written during the period from 1991 to 1995. The discovery of that new evidence has the potential to delay all of those trials and could not have been foreseen when the trial estimates were generated. For the most part, it is not possible to ascertain the precise impact of that new evidence, but it would seem that the minimum delay would be a period of about three months.

But more generally, it has to be understood that assessments that are made prior to the commencement of a trial are really nothing more than guesstimates. For example, the Trial Chamber in the *Karadžić* case, in assessing the time it would take to complete the trial, considered it a fair assessment to allocate to *Karadžić* the same time for the cross-examination of Prosecution witnesses as it allowed the Prosecution for its own examination of its witness. However, the unprecedented volume of written material tendered through those witnesses has necessitated a significant increase in the time allotted to *Karadžić* for cross-examination, and that could not have been anticipated at an early stage of the proceedings.

That is the nature of trials, particularly trials of the complexity of those heard at the Tribunal. It is often the case that assessments made with the best of intentions prior to the commencement of a trial are shown to have been overly optimistic once the trial has commenced. There is nothing unusual about that. As I have said on many previous occasions, the estimation of the length of trial and appeal proceedings is more an art than a science. That is something that the international community needs to respect.

It has occurred to us at the Tribunal that the misunderstanding that Member States have in respect of the time taken to complete the Tribunal's mandate is partially, if not wholly, due to the novelty of the exercise in which the United Nations is now involved in relation to the Tribunal. In the past, the United Nations has wound up administrative bodies such as peacekeeping operations. The Organization has therefore developed a practice and a culture with

regard to exit strategies for such bodies. But the Tribunal is not an administrative body. It is a court of law, and as such it will always be prone to a certain degree of unforeseeability, which is a natural element in most kinds of judicial work, particularly in trials as complicated as those at the Tribunal.

The Tribunal cannot be wound up as though it were a bakery producing bread. It can be wound up properly only with appropriate sensitivity to the judicial character of its work. To apply to the Tribunal in this, the final stages of its life, the mindset and culture that are relevant to the closure of administrative bodies like peacekeeping operations is wholly wrong and, what is more, is bound to have an effect on the Tribunal's capacity, and indeed duty, to deliver justice in a fair and impartial manner, as will become apparent in what follows.

However, I should also underscore that, when delays are shown to be inevitable and fully justifiable, judges do not simply accept them as part and parcel of the trial process. They proactively devise and implement measures to reduce such delays by, for example, increasing court hearings and reducing the number of witnesses to be heard in a case. For example, in the *Karadžić* case, the Trial Chamber has announced its intention to adopt measures to reduce the slippage resulting from its recent decision to allot more time to Mr. Karadžić in the interests of fairness.

In that regard, I am bound to point out that judges, and in fact all staff at the Tribunal, feel the pressure of the completion strategy and of the international community to expedite the work of the Tribunal. And as a judge and as President of the Tribunal, I must say I find that troubling. Judges are entitled to, and indeed must work in, an environment free from all external pressures, so that their judicial independence is not, and does not appear to be, compromised. In that regard, I note that motions have been filed by parties accusing the judges of taking decisions for the sole purpose of expediting the proceedings and in some cases alleging that that was done in response to the completion strategy and not on the basis of the merits of the case and without regard for the fairness of those proceedings.

There are some other obvious causes of delay that cut across all the Tribunal's trials, and some are simply unavoidable. First is the doubling up of judges and staff. The scheduling of hearings, deliberations and consultations has been complicated by the need to take into account the competing obligations of judges and staff to other cases. While the Tribunal has increased its trial capacity from conducting six trials simultaneously to 10 trials, it has not seen a comparative increase in its resources.

Another factor that has impacted our work is the constant departure of the Tribunal's highly experienced staff for more secure employment elsewhere. Experienced staff continue to leave at an alarming rate. In Chambers alone, the Tribunal has witnessed a 21 per cent attrition rate. The impact of those departures on the expeditious completion of the Tribunal's trials and appeals is profound, and I have consistently warned the Security Council and the Assembly that the work of the Tribunal will be protracted if we are unable to retain staff and are forced to constantly recruit and train new staff.

I have called upon the United Nations to assist the Tribunal in devising incentives to retain its highly qualified staff. I have also identified measures that could be taken to alleviate staff attrition rates. However, to date very little has been achieved.

The General Assembly offered us a measure of hope through its adoption of resolution 63/256, in December 2008, which authorized the Tribunal to offer contracts to staff in line with planned post reductions and the prevailing trial schedules. However, despite the clear language and intention of the resolution, it has not been implemented, because the budgetary authorities at United Nations Headquarters consider the Tribunal incapable of offering contracts to staff that are not tied to approved budgetary submissions.

In desperation, I made a direct plea for assistance to the Security Council in June of this year, and the Council responded by passing resolution 1931 (2010), which noted the importance of the Tribunal being adequately staffed to complete its work expeditiously and called upon the Secretariat and other relevant United Nations bodies to continue to work with the Registrar of the Tribunal in order to find practicable solutions to address the issue as the Tribunal approaches the completion of its work.

In the meantime, the Tribunal is still pressing for action to be taken, as we continue to lose our highly experienced and essential staff, and as the expeditiousness of our proceedings continues to suffer from delays that could be avoided through urgent

action by the international community to devise incentives encouraging our staff to remain with the Tribunal until they are no longer necessary.

I should add that the updated trial schedule has resulted in the Tribunal's filing a supplementary budget, which is before the Assembly. In so doing, the Tribunal was extremely sensitive to the current economic climate, and has requested only that which it considered absolutely necessary in order to ensure that our expeditious operation is not compromised. In that regard, I note that the efficiency and productivity of the Tribunal far surpass those of any other comparable institution, and that is despite the many challenges it has faced during the reporting period.

There is one final matter that I feel compelled to raise before the Assembly yet again. I refer to my commitment as President of the Tribunal to ensuring the establishment of a trust fund for victims from the former Yugoslavia. The International Criminal Court and the 113 States that have ratified the Rome Statute have demonstrated by their establishment of a trust fund for victims that they accept that justice must not only be retributive, but that it must also be restorative if peace is to be lasting. It is my intention, as President of the Tribunal, to take action to end this travesty, and I hope that I will receive the Assembly's support in doing so.

In closing, I wish to reassure all Member States that the Tribunal's commitment to the completion strategy remains steadfast and that we are taking all measures within our power to expedite our proceedings, while still fully respecting the rights of the accused to due process. I would also ask that all Member States reflect for a moment on the remarkable achievements of the Tribunal. It was not so long ago that international criminal justice was but a dream in the minds of those striving for a safer and more just world. But now the dream has been realized. The Tribunal has demonstrated to the international community that international humanitarian law is an enforceable body of law, that it binds the conduct of the most senior officials, and that the rule of law is a living, breathing reality that forms part of the fabric of our civilization. The Tribunal represents the aspirations of the international community to ensure that justice prevails over impunity, and that is something in which we all have a stake.

It is for these reasons that the work of the Tribunal, which has been entrusted to us, is not only our work but in fact the work of everyone here today. I therefore call on all States members of the General Assembly to assist us in our commitment to bringing the work of the Tribunal to a close, expeditiously and fairly.

The Acting President (*spoke in Spanish*): I thank the President of the International Tribunal for the Former Yugoslavia.

Mr. Iddi (United Republic of Tanzania): Let me, on behalf of my delegation, thank the Presidents of the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY), Mr. Dennis Byron and Mr. Patrick Robinson, respectively, for their comprehensive reports to the Assembly. I should like to express my Government's sincere appreciation for the enormous efforts that the two Presidents have made to spearhead the work of the Tribunals to Member States' satisfaction. Tanzania fully appreciates the extent of the accomplishments that the principals of the Tribunals have been able to achieve over the past year, despite all the odds, and we urge them to continue to do so in the challenging times of transition to come.

The reports of the Tribunals point to significant progress over the past year, which, as I said, deserves our sincere appreciation. They reveal that the Tribunals have continued their efforts to complete their remaining workload at both the trial and the appeal levels, and have thus far succeeded significantly. Without referring to the statistics, I also wish to commend the Tribunals for their efforts to bring fugitives to book, and I wish to join the Tribunal Presidents in their call on Member States to continue cooperating in bringing to justice those fugitives who remain at large. Speaking for Tanzania, I can assure the Assembly that our Government will continue to extend the necessary support to both the ICTR and the ICTY in whatever way we can.

It is heartening to note that the Tribunals have made important preparations as they head towards their conclusion, including those aimed at avoiding unnecessary gaps in the dispensation of international criminal justice. For instance, in the case of the ICTR, the diffusion of information about its activities has been enhanced. Outreach projects relating to youth sensitization and genocide prevention in the Great

Lakes region have been made possible with the generous financial support of development partners. Capacity-building activities for legal professionals in Rwanda are a good indication that there will be no gap after the Tribunal concludes its work, as the national authorities will be able to advance the disposition of pending cases. We wish to thank all the development partners that have extended financial support to the Tribunal, and urge others to follow suit.

It is equally worth noting that the Tribunals have played an important role in fighting impunity and promoting the international cause of justice. As the host country for the International Criminal Tribunal for Rwanda, we have continued to facilitate its smooth operations in accordance with the provisions of the Headquarters Agreement. We will continue to do so during this stage of transition towards the conclusion of its mandate.

However, we note with concern that the Tribunals have faced numerous challenges in recent years, especially in the difficult area of staffing. Some staff members have had to abandon their posts for more stable and reliable employment elsewhere in the United Nations system. We would urge the General Assembly to pronounce on this delicate matter, which hampers a smooth transition to the conclusion of the Tribunals' mandate.

Likewise, we note that the reports have revealed that the Tribunals continued to be hampered by a shortage of volunteer countries to take acquitted persons and where convicted persons could serve their sentences. This is a serious problem that should be addressed jointly. We therefore call upon Member States to consider accepting this noble responsibility.

Another challenge facing the Tribunals is the fact that a number of fugitives remain at large. We therefore call upon Member States to continue to cooperate in search of all fugitives so that they can be brought before the Tribunals to face justice. Such cooperation would go a long way towards preventing impunity and indeed send a strong message to perpetrators of crimes against humanity. By and large, it would enhance the full realization of the celebrated principle of "extradite or prosecute", and thus deny safe haven to perpetrators of heinous crimes.

As rightly stated in the report of the ICTR, "State cooperation remains the cornerstone of the Tribunal's ability to complete its mandate" (*A/65/188, para. 85*). We call upon Member States to provide such cooperation. We also urge Member States to consider extending cooperation with regard to acquitted and convicted persons, and to continue to provide the Tribunals with the necessary resources so that they are able to complete their work within the intended time frame.

As the Tribunals draw closer to completing their mandates, the United Republic of Tanzania has been following with great interest the deliberations of the Security Council Informal Working Group on International Tribunals, chaired by Austria, on the various options for the Tribunals' residual mechanisms and archives. To this end, the Government of Tanzania considers that it would be desirable for sensitive records of the Tribunals containing confidential records to continue to be kept in a safe, peaceful, stable environment accessible to the United Nations and authorized persons without administrative bottlenecks, security concerns or political constraints.

Tanzania is ready and willing to continue to host the residual mechanism and the archives with the same dedication and commitment we have demonstrated throughout the operation of the ICTR from its inception. We strongly believe that the infrastructure already in place is suitable to maintain the records of the Tribunal as an important historical learning institution for the benefit of our future generations.

In conclusion, let me once again renew my Government's commitment to the cause of international criminal justice by deed and action. We will continue to provide the facilities necessary for the smooth conclusion of the work of the ICTR, as well to ensure that all issues relating to residual functions will be handled with even greater care and due diligence in Tanzania. We hope to be able to offer a helping hand as we have always done. Together, we can overcome all of these hurdles.

Mr. Grauls (Belgium): I have the honour to speak on behalf of the European Union. The candidate countries Turkey, Croatia and the former Yugoslav Republic of Macedonia; the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, and Montenegro; the European Free Trade Association country Liechtenstein, member of the European Economic Area; as well as Ukraine, Armenia and Georgia align themselves with this declaration.

This year once again, the European Union reaffirms its unwavering support for the work of the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia. Both Tribunals are making invaluable contributions to our shared goal of ending impunity for serious international crimes. The European Union thanks both President Robinson and President Byron for their reports (A/65/205 and A/65/188) and commends them for their efforts in completing the work of the Tribunals. The European Union also pays special tribute to the work of all the staff of the Tribunals.

The Tribunals have played key roles in strengthening the rule of law and promoting long-term stability and reconciliation — and not only in the Balkans and Rwanda. Their jurisprudence has had far wider effects. Since their establishment, both Tribunals have embodied the need to fight impunity and the international community's refusal to let perpetrators of the most serious crimes of international concern escape justice. They have been forerunners in creating jurisprudence that is a source of inspiration for all national and international jurisdictions that will have to address such crimes. Their records bear that out. International criminal justice does exist; it prevails, and sooner or later the perpetrators will be held accountable for their heinous crimes.

The European Union recalls that State cooperation — in particular cooperation in bringing those indicted to justice — remains the cornerstone of the Tribunals' ability to complete their mandates. In this respect, the European Union commends the cooperation of the Democratic Republic of the Congo and the Ugandan authorities for the arrest and transfer to the International Criminal Tribunal for Rwanda during the past year of Grégoire Ndahimana, Idelphonse Nizeyimana and Jean Bosco Uwinkindi.

However, despite continuing appeals by the international community, altogether 12 accused individuals remain at large, of whom two have been indicted by the International Criminal Tribunal for the Former Yugoslavia and 10 have been indicted by the International Criminal Tribunal for Rwanda. The failure to arrest these indictees remains a matter of grave concern to the European Union. Among those still at large are five key indictees allegedly responsible for the most serious atrocities, including Ratko Mladić, Goran Hadžić and Félicien Kabuga. We call on all States, and in particular States of the relevant regions, to further intensify their efforts to ensure that all indictees are arrested and surrendered to the Tribunals.

The European Union notes that the cooperation of Serbia, Croatia and Bosnia and Herzegovina with the International Criminal Tribunal for the Former Yugoslavia was generally adequate during the reporting period, although some important issues remain to be addressed. While there are many commendable instances of cooperation, the European Union continues to urge all States to cooperate immediately and unconditionally with both Tribunals, in full adherence to their obligations under the relevant Security Council resolutions regarding the arrest and surrender of remaining fugitives and the transfer of any documents requested by the Prosecutors.

The European Union remains committed to ensuring that all indictees face justice. In this regard, the European Union would like to recall that cooperation with the International Criminal Tribunal for the Former Yugoslavia is essential in relation to the European Union's Stabilization and Association Process.

With regard to the International Criminal Tribunal for Rwanda, the European Union notes with appreciation that the Prosecutor has held fruitful high-level discussions with officials of several States on the issue of cooperation with his Office, but regrets that cooperation with Kenya remains a major challenge. The European Union calls on the Kenyan authorities to engage in further discussions with the Prosecutor of the International Criminal Tribunal for Rwanda, as offered by the Kenyan representative in the Security Council debate of 18 June, on the present whereabouts of the fugitive Félicien Kabuga (see S/PV.6342).

In recognition of strengthened domestic capacity, the Security Council, in its resolutions 1503 (2003) and 1534 (2004), called on the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda to transfer all lower- and mid-level accused to competent national jurisdictions for trial by domestic courts. The European Union welcomes the ongoing efforts of Rwanda, in cooperation with international donors, to strengthen the Rwandan legal system and its ability to adjudicate cases from the International Criminal Tribunal for Rwanda, and expresses the hope that these reforms will

permit the International Criminal Tribunal for Rwanda to transfer the cases of lower-level accused to the Rwandan courts for trial and thus allow the Tribunal to complete its work. The European Union confirms its commitment to supporting activities aimed at strengthening the capacity of the Rwandan judiciary.

The European Union regrets that there has been further slippage in the completion timelines due to a number of factors, some outside the Tribunal's control, including the late capture and transfer of fugitive indictees. The European Union urges the Tribunals to continue to identify further measures that will allow them to complete their work as efficiently and promptly as possible. However, the completion of the Tribunals' work should be done in an orderly manner and not affect the quality of their adjudication and due process. We acknowledge the importance of adequate resources and of retaining qualified staff to enable the Tribunals to complete their proceedings as soon as possible. However, at the same time, it is important that the Tribunals use their available resources as efficiently as possible.

The European Union further welcomes the progress made on residual issues by the Security Council's Informal Working Group on International Tribunals, including the preparation of a draft resolution and draft statute on the establishment of a residual mechanism. We highly value the open and transparent work of the Informal Working Group on those issues, under its Austrian chairmanship. We stand ready to work with the Security Council to find the most appropriate and cost-effective solutions to the issues of legacy and residual functions. The European Union also supports the idea of the establishment of information centres in the countries of the former Yugoslavia and in Rwanda to facilitate access to the public records of the Tribunals by the interested public.

Ms. Robertson (Australia): It is my honour to speak on behalf of Canada, Australia and New Zealand (CANZ). Canada, Australia and New Zealand wish to take this opportunity to reaffirm our strong support for the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). We thank Judge Robinson and Judge Byron for being present here today and for providing the comprehensive overview of the reports of their respective Tribunals to us (A/65/205 and A/65/188).

We believe that the Tribunals and the international community can be proud of the many achievements the Tribunals have achieved to date. The Tribunals have made an unprecedented contribution to the international community's goal of ending impunity for serious crimes. Their jurisprudence has enriched our understanding of genocide, crimes against humanity and war crimes, as well as the practice and procedures of international criminal law. By fostering the development of national courts, the Tribunals have strengthened the rule of law. Through their outreach and coordination activities, the Tribunals have fostered reconciliation and demonstrated that peace and justice can be pursued in tandem.

We welcome the efforts being made to utilize the legal and institutional legacies of the Tribunals to inform the work of other international criminal tribunals and to promote the advancement of international criminal justice.

CANZ appreciates the efforts being made by both the ICTY and the ICTR to achieve the goals set out in their respective completion strategies. We welcome in particular the ICTY's implementation of the recommendations of its Working Group on Speeding up Trials and the ICTR's issuing of practice directions aimed at improving the management of trials.

CANZ recognizes that, in moving into the completion phase of their work, both Tribunals are facing significant challenges. It is evident from the reports of the Tribunals that a key issue of concern is the fugitive status of 12 indictees. It is imperative that all remaining indictees be surrendered and that States make special efforts to ensure that high-level indictees Ratko Mladić, Goran Hadžić, Félicien Kabuga, Protais Mpiranya and Augustin Bizimana face trial. As noted by the Tribunals themselves, decisive and intensified action by the relevant authorities is critical in this regard.

It is equally important that the international community respond to the calls of the Tribunals for assistance in developing creative approaches to assist with the retention of essential staff. We accept that the Tribunals are being asked to undertake an ever-more onerous workload at a time when they are losing experienced personnel at an alarming rate as staff members seek out positions with greater job security. We hope that the Secretariat and other relevant bodies will continue to work with the Registrars of the

Tribunals to find practicable solutions to these very pressing problems.

CANZ recognizes that the completion of the Tribunals' mandates will not mean an end to all of the Tribunals' functions. It has long been understood that there will be activities — such as the trial of subsequently captured fugitives, the enforcement of sentences, the protection of witnesses, the provision of assistance to national authorities and the management of archives — that must be continued. We welcome the efforts being made by the Tribunals in that regard, as well as those being undertaken by the Government of Rwanda to address the impediments to the referral of cases to Rwanda by the ICTR.

We also note the reports and recommendations made by the Security Council's Informal Working Group on International Tribunals in relation to the establishment of a mechanism to carry out the residual functions of the ICTY and the ICTR. We encourage the ongoing discussion of those issues. While the situation faced by every criminal tribunal is unique, those discussions and their eventual outcomes will no doubt be of great assistance to future planning undertaken in relation to the Extraordinary Chambers in the Courts of Cambodia, the Special Court for Sierra Leone and the Special Tribunal for Lebanon.

The successful completion of the work of the ICTY and the ICTR will require the cooperation and support of all States. We call upon States to give practical effect to their commitment to an effective system of international criminal justice. For our part, Canada, Australia and New Zealand will continue to offer the Tribunals our full support and cooperation in this vital and challenging stage of their existence.

Mr. Shin Boonam (Republic of Korea): As the Presidents of the two Tribunals have outlined in their respective annual reports (A/65/205 and A/65/188), the achievements of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) are so many as to render it impossible to give appropriate credit to them all. The staff members of the Tribunal and anonymous individuals working behind the scenes to support the Tribunals' work deserve our tribute of great gratitude and respect for that. The time is quickly approaching for the closure of both the ICTY and the ICTR. Now more than ever, we must remain humbled by the task ahead of us — to create a living legacy out of that momentous effort.

The Tribunals represent our effort to apply the rule of law to those who have used their powers to destroy the fabric of peace and committed unimaginable atrocities. The significance of that effort to ensure justice is not to be measured in isolation. It is part of a larger ongoing movement to align international law with the moral sense of humankind so as to ensure that the reach of justice extends to every corner of the world. It is our responsibility to ensure that, years after the last office in the ICTY and the ICTR headquarters has been vacated, the legacy of the two Tribunals continues to ring. But how can that be done? What exactly is or will be the legacy of the two Tribunals?

In my mind, the legacy of the Tribunals is threefold. First, on a technical level, the ICTY and the ICTR have built a foundation for the development of international criminal law. The Tribunals will leave behind a valuable legal asset that includes the rules of procedure, practices and judgements of the Tribunals.

Secondly, the institutional legacy of the two Tribunals has sown the seeds for the creation of other international and hybrid criminal courts around the world. Having simultaneously contributed to the development of national judiciaries to hold fair and effective war crimes proceedings, the ICTY and the ICTR set the standard for the principle of complementarity to gain ground in the paradigm of international justice.

Thirdly, the legacy of creating regional peace and stability reminds us that only when we make all people answerable to the law can we cast away tyranny and violence. Today, the Tribunals have done much to provide a sense of justice and reconciliation to the victims and to society at large.

The next question is: What can we do to ensure the utilization of the legal and institutional advances that have resulted from the Tribunals? In short, how can we secure the legacy?

The mortar for that effort will be the completion strategy of the two Tribunals and, subsequently, the residual mechanisms. While the Security Council's Informal Working Group on International Tribunals continues to determine the residual functions and what form and structure they should take, it is equally

imperative for us to continuously relate that initiative to a broader context.

Let us continue to take into account the rights of all individuals concerned and offer our cooperation and support to national authorities. As part of their completion strategies, the Tribunals should intensify their efforts to refer further cases to national jurisdictions, which would strengthen domestic judiciaries and act as a catalyst for legal reform. On that note, we must express clearly the jurisdictional continuity between the Tribunals and the mechanisms.

We must also call upon the experienced staff of the Tribunals to provide institutional knowledge and experience to the residual mechanisms, especially through the prudent management of the Tribunals' archives. Creating a separate regime to govern the management of and access to the archives, including confidential information, would be a good place to start. We must also ensure that national judges, prosecutors and lawyers have easy access to them, as well as to the tools to understand them.

One of the most difficult issues facing us today is the fact that several high-level fugitives remain at large. As individuals, their fates may be of little consequence to the world; what makes them significant to us and to the communities affected is that they are living symbols of atrocity, oppression and cruelty — the darkest forces that demoralize a society.

Today, let us call upon all States to intensify cooperation with the Tribunals to achieve the arrest and surrender of those fugitives. We cannot allow a culture of impunity to gain ground and give strength to such sinister forces. Those individuals will be brought to justice and the mandate of the Tribunals fulfilled.

The Republic of Korea will always be one of the most vocal supporters of the movement for international justice. The work of the ICTY and the ICTR has proven to be pivotal to that movement. We look forward to the drawdown of the Tribunals in a smooth and efficient manner. That is what we have achieved, but it is just the beginning. Now that task falls to us, for those institutions will become what we make of their legacies. I wish for the future of international justice to stand high on the shoulders of the ICTY and the ICTR.

Mr. Appreku (Ghana): This being the first time I have taken the floor since his assumption of the presidency, let me add my voice to the warm words of congratulations extended to the President of the General Assembly by the head of Ghana's delegation during the high-level segment of the general debate and reiterate my delegation's best wishes for his success as he presides over the affairs of this Assembly during its sixty-fifth session.

My delegation thanks the Secretary-General for his two notes (A/65/188 and A/65/205), respectively forwarding the comprehensive reports of the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY).

My delegation also expresses deep gratitude to the President of the ICTR, Judge Charles Michael Dennis Byron, and the President of the ICTY, Judge Patrick Robinson, for their thorough presentations of their respective annual reports. We are pleased to learn of the progress being made concerning the respective completion strategies of the two Tribunals. We comment on these two reports mindful that an accused person is presumed innocent until proven guilty and bearing in mind the commitment made by the international community to preventing and deterring mass atrocities and to bringing to justice the perpetrators of such heinous crimes.

The jurisprudence of the ICTR and the ICTY, like that of the Special Court for Sierra Leone and other ad hoc or hybrid tribunals, has contributed significantly to the strengthening of the legal regime of international criminal justice. The practice of engaging in a process of dialogue among judges of the International Court of Justice, the International Criminal Court and other ad hoc or hybrid tribunals will help to minimize or address concerns about the fragmentation of international law and promote the rule of law and respect for human rights.

Ghana welcomes initiatives reflected in the reports of the ICTR and ICTY to build archival records as part of their legacy to guide the future behaviour of individuals and States. Perhaps a more durable legacy will be for the international community to draw appropriate lessons from the legacy of cases or jurisprudence of the Tribunals in order to enhance the capacity of States Members of this Organization to undertake preventative action. The victims must also continue to receive attention even after the work of the Tribunals is wound up. With a view to facilitating the

attainment of their completion targets, the requests of the Tribunals for the various resource challenges outlined in the reports before this Assembly to be addressed deserve careful consideration.

The need for prevention cannot be overemphasized. Indeed, as a result of the experience of violent civil wars and other violent conflicts that have occurred on the continent of Africa, including within our own subregion of West Africa, particularly in the 1980s and 1990s, the African Union (AU) and regional organizations on the continent have resolved to take a more proactive active stance to prevent conflicts or to take timely and decisive action when prevention fails. Thus, for example, under the Constitutive Act of the African Union, AU member States have conferred a treaty right on the Union to intervene at the request of any member State in situations of genocide, war crimes or crimes against humanity upon the recommendation of the AU Peace and Security Council.

Pursuant to these provisions, the African Union has developed the African Standby Force arrangement and requested logistical and financial support from the international community to ensure that the force can be rapidly deployed for prevention or decisive action on the continent of Africa, in accordance with the United Nations Charter. African countries also joined the consensus in this Assembly when it adopted the 2005 World Summit Outcome (resolution 60/1), in particular paragraphs 138, 139 and 140, in which world leaders accepted their responsibility to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

As we consider the reports of the ICTY and ICTR today, we should recall that which led to the establishment of the Tribunals in the first place and work at managing our ethnic or racial diversities in a manner that will promote national integration and unity, foster inter-ethnic harmony and prevent mass atrocities. To this end, the Ministers for Foreign Affairs of Ghana and Denmark co-hosted in New York a side event on 24 September 2010, attended by ministers for foreign affairs and other ministers from some 25 countries in a cross-regional endeavour to explore ways of moving beyond the concept to the effective operationalization of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This will no doubt complement the initiatives of the Secretary-General and his Special Adviser for the Responsibility to Protect and his Special Representative for the Prevention of Genocide and Mass Atrocities. Furthermore, early this year, the Government of Ghana invited to Accra the Secretary-General's Special Representative for the Prevention of Genocide and Mass Atrocities to exchange views on measures to address the root causes of conflict, thereby preventing genocide and other serious crimes within the region of the Economic Community of West African States.

I wish to conclude by commending the outreach programmes undertaken by the ICTR and other tribunals aimed at educating young people and other segments of the population, for it is a truth that bears repeating that, since war begins in the thoughts of men and women, it is in the minds of men and women that the defences of peace must be built. We must diligently and passionately inculcate the culture of peace and tolerance among all nations and civilizations.

The United Nations has answered the call made in the African Union's Kigali Declaration to commemorate 7 April as a day of remembrance of the victims of genocide in Rwanda and to renew our commitment to the prevention of genocide in the world. If or when the next mass atrocities threaten or do occur, the international community must be prepared and ready to answer the call to prevent them or take appropriate action in a more timely and decisive manner than it has done in the past.

Ms. Čolaković (Bosnia and Herzegovina): Allow me at the outset to welcome Judge Patrick Robinson, President of the International Criminal Tribunal for the former Yugoslavia (ICTY), and Judge Charles Michael Dennis Byron, President of the International Criminal Tribunal for Rwanda (ICTR), and to thank them for their comprehensive and detailed reports (A/65/205 and A/65/188) and briefings in today's meeting. We commend their hard work in fighting impunity and their dedication to the cause of justice, as their every action uncompromisingly states that war crimes, genocide and crimes against humanity will not go unpunished. In addition, we find it necessary to mention the tireless work of all the staff of the Tribunals.

We are also obliged to take note of all the efforts the Tribunals make to successfully complete their work, and to provide them with all the necessary support. More than ever, we are convinced that a hasty closure

would irrevocably undermine and tarnish their legacy, a legacy that without a doubt represents one of the cornerstones on which the international criminal justice system as we know it today is built. We strongly agree with the remarks made by Secretary-General Ban Ki-moon on 17 July 2008 at the commemoration of the tenth anniversary of the adoption of the Rome Statute of the International Criminal Court, when he stated that the fight against impunity started in earnest with the establishment of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. Those courts pioneered the emergence of international criminal justice and the enforcement of international humanitarian law. We must therefore not allow the groundbreaking contributions of the Tribunals to international jurisprudence to fall victim to pressure to conclude their mandate, ending with partial results and without adequate resolution.

I would also like to extend our appreciation to Ambassador Mayr-Harting for his firm leadership in chairing the Informal Working Group on the Tribunals. Bosnia and Herzegovina attaches great importance to work of the Group, and further commends the Austrian delegation for efficiently steering its deliberations, with the valuable assistance of the Office of Legal Affairs, to an adequate and credible residual mechanism that will be the Tribunals' legacy.

It is encouraging indeed that during the reporting period of the ICTR three more fugitives were arrested, bringing the total number of fugitives down to 10. On the other hand, it is disappointing and frustrating that Felicien Kabuga, Ratko Mladić and Goran Hadžić still manage to evade justice and mock the entire international community. We can appeal to the Tribunals to comply with the completion strategy and tirelessly work on the residual mechanism, but all of that is useless unless we take some firm steps and serious measures to bring those criminals to justice. Only then — I repeat, only then — will we be able to say that every condition of the founding resolutions of the Tribunals has been met and their assigned mandates fulfilled. For that matter, it is beyond doubt that the unconditional cooperation of the relevant international and regional organizations and States is essential and necessary for the complete fulfilment of the Tribunals' mandates.

I therefore underline the strong commitment of my country to its obligations, and our undeniable support and dedication to strengthening international criminal justice. The ICTY report before us (A/65/205), as well as the previous ones, reflects that commitment through the record of a steady and positive cooperation between Bosnia and Herzegovina and the Tribunal. As stated, the authorities of my country have effectively responded to all requests of the Prosecutor's Office, providing documents, enabling unobstructed access to Government archives and facilitating the appearance of witnesses before the Tribunal. The cooperation has been particularly constructive with regard to the rule 11 bis cases transferred by the Office of the Prosecutor to the War Crimes Chamber of the State Court of Bosnia and Herzegovina. Five of the six cases transferred to Bosnia and Herzegovina have been completed with final decisions.

Allow me to conclude by underlining that throughout the years Bosnia and Herzegovina's support for the Tribunals, especially the ICTY, has been unwavering, and today we reaffirm that support once again. As the country most affected by the crimes under the jurisdiction of one of the Tribunals, we cannot emphasize enough how important it is to bring justice to the victims and their families and to hold accountable those who committed those heinous crimes. Thus, we regard the work of the Tribunals in fighting impunity as of the highest importance, as they have advanced the rule of law in affected regions, brought justice to those who suffered the most and eventually paved the path towards reconciliation.

Mr. Panin (Russian Federation) (*spoke in Russian*): First of all, let me express our appreciation to the Presidents of both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their reports (A/65/205 and A/65/188). The Russian Federation is inalterably committed to the idea of the dispensation of international criminal justice for the perpetrators of the most severe crimes under international law, and recognizes the significant contribution of the Tribunals to establishing a system of international criminal justice and to the cause of restoring peace and justice in States established in the territory of the former Yugoslavia and in Rwanda.

The contribution of the Tribunals to developing the practice of international criminal justice is of an enduring significance that will most likely only be truly assessed by future generations. We have no reservations that those indicted by the Tribunals who have committed the crimes mentioned but who for

various reasons are still at large must be brought to stand before the law. We have consistently supported and we now support the efforts of the two Tribunals to deal with those fugitives. Both here in the Assembly and in the Security Council, we have repeated our assessment of the work of the Tribunals every year in response to the Tribunal reports, and we are willing to reaffirm now every word we have previously said.

Still, there is, unfortunately, a negative side to the work of the Tribunals that diminishes its positive aspect. The Tribunals have long since exceeded the deadlines for their existence, thereby conflicting with Security Council resolutions on a completion strategy for their work. We are convinced that such a situation does a disservice, both to the international community and to the Tribunals themselves, and we intend to continue to press to resolve this matter.

Moreover, an examination of the prospects for moving the Tribunals' work to completion leaves little room for optimism. According to recent information provided by the Tribunals this year, the Rwandan Tribunal planned to close cases in the trial phase in 2011 and the recent appeals at the end of 2013. The Tribunal for the former Yugoslavia was looking to close cases in the trial phase in 2012 and the recent appeal litigation in the Karadžić case in 2014. Those deadlines are very noticeably later than the dates provided in 2009 — and have since been extended — so we cannot escape the feeling that even these extended deadlines are not final. One cannot help being alarmed by the continuously significant extensions of the trials, especially in the ICTY. The Rwandan Tribunal has done better by comparison, having provided more accurate forecasts and seeming closer to concluding their cases.

Our position on this matter of principle remains unchanged.

The extension of all proceedings beyond 2010 is an exceptional measure. When one of the Presidents spoke here, he talked about the future. We would like to emphasize that we understand the difference between an ad hoc court and a full court, and we agree that the Tribunals cannot close their business quickly. We understand that, when the completion strategy set the finishing year at 2010, which was supposed to be the final deadline, and the courts saw that they could not manage to finish, the courts corrected that.

We understand the objective reasons why some trials have dragged on. For instance, it is completely understandable why there would be a deadline later than the one originally planned for the ICTY to complete the *Šešelj* case, or a possible extension of the Tribunal's operations owing to the decision to start a partial retrial of the *Haradinaj* case.

However, we see a number of other significant differences between the ad hoc and full courts. We will talk about them later, in a less formal setting.

We are absolutely convinced that the particulars of those cases, if the work were properly organized, could not serve as grounds for significantly extending the Tribunals' deadline and are truly of no impact whatsoever on the delays already registered, and that we are in this situation through the fault of both the Tribunals and States.

The problems of the extension of deadlines for the ICTY and ICTR would be fully manageable, if the efforts of the Tribunals themselves, the General Assembly, the Security Council and the countries of the two regions were coordinated and combined.

With respect to the work of the Tribunals, they have already done much themselves to speed up their trials. We welcome the efforts to speed up litigation and to make rational use of court space and staff for simultaneous hearings on a number of cases. However, more can be done to optimize the work in this respect.

It is unacceptable that the defendant in the *Šešelj* case, which we have already mentioned, had to await the start of proceedings for over six years, in violation of all reasonable procedural timelines and his right to a speedy trial. Such a situation violates even elementary human concepts of justice. Looking for support to speed up the trials is, we think, possible and a way to ensure maximal use of the judges' work and time.

There have been examples of obvious success in meeting that challenge. In particular, we are impressed that the ICTY, in the *Popović* case, was able to support the peak workloads of the judges, prosecution and defence, and we are persuaded that such an intense pace can be also supported in other cases.

The successful completion of the mandates of the Tribunals would be helped if States in the region extended further conscientious cooperation to them. We call on those States to continue to actively facilitate the work of the Tribunals through the timely provision

of the necessary information and to help in the search for individuals still at large. We should especially support the willingness of a number of States to provide the Tribunal with the opportunity for those convicted to serve their sentences in that country and, in the case of Rwanda, even to take on a number of cases under their national jurisdiction. That would attest to the progressive development of legal institutions in post-conflict areas and to the establishment of the rule of law nationally, which was one of the major challenges when the Tribunals were established.

Mr. Starčević (Serbia): Let me begin by welcoming the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Patrick Robinson, and the President of the International Criminal Tribunal for Rwanda (ICTR), Mr. Dennis Byron, and thanking them for their presentation of the annual reports of the two Tribunals (A/65/205 and A/65/188).

In this connection, I would like to reiterate Serbia's full commitment to cooperate with the ICTY and to assist in the successful completion of its mandate. My country has clearly expressed its political will in that respect and has implemented it through its efforts towards strong and continuous cooperation with the Tribunal.

That political will was demonstrated also by the fact that, on 31 March 2010, the National Assembly of the Republic of Serbia adopted a declaration condemning the crime at Srebrenica, an act of exceptional importance for both Serbia and the entire region. By that declaration, the National Assembly gave full support to the work of Government agencies in charge of processing war crimes and successfully completing cooperation with ICTY, in which the locating and arrest of Ratko Mladić and his transfer to the Tribunal for trial is of particular importance.

Also, the President of Serbia was present at the Potočari Memorial Centre on 11 July 2010 for the commemoration of the 15 years since the crime at Srebrenica. He said on that occasion that Serbia would not desist from its efforts to track down the perpetrators of war crimes, and Ratko Mladić in particular, in order to make it possible for people to continue to live together.

Regarding the technical aspects of cooperation with the Tribunal, we consider that a very high level of cooperation has been reached and maintained over the past several years, which is amply evidenced by the reports of the ICTY Prosecutor to the Security Council. That has been made possible by the dedicated work of both the competent Government agencies of the Republic of Serbia and the Tribunal, as well as by the relations of trust and confidence established between them. Today, excellent professional relations exist between the representatives of Serbian institutions and the representatives of the Tribunal, and this is evident.

To illustrate the existing level of cooperation, let me point out the following. Serbia has thus far responded in full to almost all the requests received from the Tribunal related to the provision of documentation, access to the archives of Serbian Government agencies, the provision of waivers for testifying in the proceedings before the Tribunal and all other technical aspects of cooperation. As stated in the report of the President of the Tribunal, the cooperation of Serbia on those issues has been timely and adequate.

We consider it exceptionally important that the report points out that Serbia has delivered to the Tribunal the items seized during the search of the apartment of Ratko Mladić's family conducted by the Ministry of Internal Affairs of the Republic of Serbia in February 2010. Items seized include Mladić's notebooks, that is, handwritten wartime notes from the period from 1991 to 1996. As stated in the report, they also contain highly valuable evidence in certain other cases before the Tribunal.

Serbia transferred to the Tribunal 43 persons indicted for war crimes, while one person committed suicide prior to being transferred. In addition to the persons charged with the most serious crimes, Serbia delivered to the Tribunal all persons found in contempt of court. Mladić and Hadžić are the only remaining fugitives. There should be no doubt about the resolve of the authorities of the Republic of Serbia to arrest Mladić and Hadžić and transfer them to the Tribunal. Serbia considers that bringing these two fugitives to justice, like the 43 before them, is in its best interest.

Serbia is well aware of the suggestions and concerns regarding the fugitives expressed by the President of the Tribunal in his report and by the ICTY Prosecutor in his briefing to the Security Council in June 2010 (*see S/PV.6342*). Serbia's security services, which are investing enormous efforts in bringing Mladić and Hadžić to justice, are open to all

recommendations and suggestions by the officials of the Tribunal. We consider it very important that the Office of the Prosecutor be provided with detailed information about all the measures that are being taken in that respect.

During the recent visit of the President of the ICTY to Belgrade, a regional project aimed at training courts in the countries of the former Yugoslavia to prosecute those accused of war crimes was launched. Serbia considers that cooperation with the Tribunal and the prosecution of war crimes in national courts are basic preconditions for the establishment of the whole truth about the war crimes committed during the armed conflicts in the territory of the former Socialist Federal Republic of Yugoslavia. That also represents an important contribution towards the normalization of the societies of the region.

We are therefore firmly committed to continuing the high level of cooperation with the International Criminal Tribunal for the Former Yugoslavia.

Mr. Wetland (Norway): Norway is a staunch supporter of the International Criminal Tribunals for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY). The high standards and achievements of the Tribunals are reflected in their well-reasoned judgements and the annual reports before us (A/65/188 and A/65/205). I would like to thank the Presidents of the Tribunals, Judges Byron and Robinson, for their informative reports. They provide a detailed account of the progress made during the past year.

The Tribunals have made important contributions to international criminal law. They have developed a jurisprudence that has set standards for national tribunals, as well as for other international tribunals. By effectively prosecuting the perpetrators of the most serious international crimes, the Tribunals have not only helped to bring justice to the victims in Rwanda and the former Yugoslavia. They have also made significant achievements in the fight against impunity for mass atrocities in general.

I would like to focus on three specific issues that are essential for the success of the Tribunals' work. Those are: first, the Tribunals' continued efforts to implement their completion strategies; secondly, the cooperation of Member States; and thirdly, the work on residual issues.

Both Tribunals are working hard to fulfil their mandates. We commend them for their commitment to implementing their completion strategies, while ensuring that the standards of due process and fundamental legal principles are fully respected.

The Tribunals must continue to carry out their work expeditiously, but that endeavour is not without obstacles. During the reporting period, the Tribunals faced difficulties in meeting the objectives set out in their completion strategies owing to the disquieting impact of staff attrition.

In that regard, we welcome Security Council resolutions 1931 (2010) and 1932 (2010), which extended the terms of 39 judges in total. Furthermore, the resolutions called on relevant United Nations bodies to explore ways to address the staffing issue as the Tribunals approach completion of their work.

The Tribunals cannot successfully fulfil their mandates without the full cooperation of States. It is crucial that States give both Tribunals their unreserved support. All States must honour their obligations to provide full and effective assistance to the Tribunals.

Here, we would like to highlight two challenges, namely, the enforcement of sentences and the remaining fugitives. The responsibility to enforce sentences must be shared by more States. We encourage States to enter into agreements on the enforcement of sentences, and we look forward to more such agreements being concluded.

The failure to arrest the remaining fugitives continues to be of grave concern to us. It is not acceptable that perpetrators of serious international crimes evade legal proceedings. Member States must fulfil their obligation to arrest them and transfer them to the Tribunals without delay. I am pleased to note the determination just expressed from this rostrum by my colleague from Serbia.

We are pleased to note that three fugitives have been arrested since the last report (A/64/205). However, 12 fugitives are still at large. We cannot rest until the remaining fugitives are apprehended and brought before the court. Impunity is not an option.

How the residual issues of the Tribunals should be dealt with is a pending issue for the Security Council. While we commend the Tribunals for their efforts, we would also urge them to ensure that as

much work on residual issues as possible is carried out before the completion dates.

We welcome the ongoing work in the Informal Working Group on International Tribunals and the support provided by the Secretariat. With regard to the location of the residual mechanisms, Norway supports an approach that also fully incorporates the needs of other United Nations-assisted courts, and full advantage should be taken of possible synergies.

The continuation of the residual activities of the Tribunals is an important part of their long-term legacy and is important for their legitimacy and for international criminal law in general. Norway is a strong supporter of the rule of law and criminal justice, and will continue to work actively to assist the Tribunals in achieving their completion dates.

Mr. Nduhungirehe (Rwanda) (*spoke in French*): I thank you, Sir, for the opportunity that you have given my delegation to speak in this debate. The Rwandan delegation thanks the President of the International Criminal Tribunal for Rwanda (ICTR) and the President of the International Criminal Tribunal for the Former Yugoslavia for the presentation of their reports (A/65/188 and A/65/205), and acknowledges their tireless efforts to successfully carry out their work and thus accomplish that noble task of doing justice to humanity.

During the period under consideration, the Government of the Republic of Rwanda continued to provide the cooperation needed to enable the ICTR to execute the mandate conferred on it by the Security Council. Rwanda continued to facilitate access to witnesses, whether for the defence or the prosecution, and to ensure their unimpeded travel to Arusha. In that regard, the Government continued to support the Witnesses and Victims Support Section, set up in the Office of the Prosecutor in Kigali, in order to ensure full and complete security for witnesses of genocide. Furthermore, as stated in the report, my Government continued to support investigations, both by the prosecution and by the defence, by providing the documents needed for the trials.

The Government of Rwanda remains committed to continuing to provide its full support for the ICTR's completion strategy, as set out in Security Council resolution 1503 (2003).

However, my delegation regrets the delay in meeting the deadline for the completion of work and notes the Tribunal's commitment to conclude trials of first instance by 2011 and appeals by the end of 2013.

As the report indicates, Rwanda will continue to cooperate with the ICTR in order to remove any obstacle to the transfer of cases that are still pending at the end of the ICTR mandate to Rwandan jurisdiction. Many legal reforms have been undertaken in that respect and have been recognized by the ICTR.

In the meantime, my delegation thanks the Tribunal for transferring to Rwanda the files on 25 suspects. Inquiries have been opened on those suspects without proceeding to an indictment, in order to enable us to undertake the appropriate legal procedures. In that regard, we reiterate the fact that our request to have the files of cases that have not yet been tried by the ICTR transferred is based mainly on the fact that the crimes tried by the ICTR were committed in Rwanda, by Rwandans against their Rwanda compatriots. Furthermore, it is appropriate to note that the evidence and the witnesses come from Rwanda, and that the justice carried out by the Tribunal will have a greater impact on Rwanda than on the rest of the world.

My Government welcomes the arrest of the three fugitives during the period under consideration: Grégoire Ndahimana, Idelphonse Nizeyimana and Jean-Bosco Uwinkindi, and we once again thank the Governments of the Democratic Republic of the Congo and Uganda for their cooperation in that respect. We also thank the ICTR for their continuing efforts to search for and arrest the remaining 10 fugitives. The Government also expresses its gratitude to the Governments of Canada, Belgium, Finland, Sweden and France for their efforts to find and bring to trial genocide suspects who are in those countries. However, we regret that some countries have not yet extended the necessary cooperation to the ICTR or the Rwandan Government, and we therefore support the appeal of the President of the ICTR in that regard.

My Government has often reiterated its views on the transfer to Rwanda of the records of the ICTR at the end of its mandate. Our request is based on the fact that those documents are an integral part of our history. They are essential to preserving the memory of the genocide, as they will play an essential role in the education of future generations and in preventing

future genocides. We note the ongoing process to determine the final destination of those records, and we express once again our availability to join the United Nations discussions on the subject.

Allow me once again to express the concern of my Government on an issue of great importance, namely, the increasing trend of defence lawyers in Arusha and some members of the academic world to trivialize and openly deny the fact of the genocide, which nevertheless was recognized by the Security Council through the very establishment of the ICTR. Those jurists, who have spoken freely in the international media, base their remarks on a mistaken interpretation of the findings of the Tribunal, which is supported by the recent report of the United Nations High Commissioner for Human Rights.

That worrisome trend is not going to promote the peace and reconciliation that Rwandans have fought so hard to achieve. The Government therefore again calls for those who deny the genocide of Tutsis to be brought before justice in accordance with Rwandan law, a law that many other countries also have applied in other instances of genocide.

To conclude, we reiterate our call for the ICTR to continue its efforts aimed at respecting its completion strategy as far as possible, while ensuring that justice is done by transferring the remaining cases to Rwandan jurisdiction. Once again, we reiterate our full support for the International Criminal Tribunal for Rwanda during this critical period of the conclusion of its work.

Mr. Maina (Kenya): My delegation congratulates the President of the Assembly on his election to preside over the deliberations of the Assembly at the current session. We also congratulate the other members of the Bureau and wish to assure the President of Kenya's full support as he discharges his task before the Assembly. I thank the President of the International Criminal Tribunal for Rwanda (ICTR) for a comprehensive annual report submitted to the Assembly (A/65/188) in conformity with the respective statute establishing the Tribunal.

Kenya, however, notes with concern the persistent allegations by the Prosecutor of the Tribunal that the fugitive Mr. Félicien Kabuga resides in Kenya. On numerous occasions, Kenya has stated its position on this matter before the Security Council and the General Assembly. That position was once again reiterated in June 2010 before the Security Council (see S/PV.6342).

I wish to state from the outset that Kenya has nothing to gain by harbouring Mr. Kabuga, especially when Kenya and Rwanda have always enjoyed excellent and cordial relations. To the contrary, we have always cooperated and worked closely with the ICTR with a view to tracing, arresting and indeed surrendering genocide suspects to the ICTR to face justice. It is important to mention that 14 suspects have been arrested and handed over to the ICTR for prosecution by the Government of Kenya. The Assembly may wish to note that this is the largest number of indictees to be apprehended and handed over to the ICTR by a single jurisdiction.

In September 2009, Kenya concluded an extradition treaty with the Republic of Rwanda, which provides, inter alia, for the extradition of Rwandan genocide suspects. The Government of Kenya has always played a key role in the relocation, protection and facilitation of movement of witnesses to the Tribunal in Arusha, to ensure that the cause of justice is served expeditiously. To that end, we have expended considerable resources in the form of material, equipment and personnel as a contribution to the rule of law and justice.

In 2007, the Government of Kenya formed a joint investigation team to search and apprehend Mr. Félicien Kabuga and to freeze his assets and bank accounts, including those of his associates in Kenya. That team discharged its mandate and submitted periodic reports of its findings to both the Kenyan Government and the Tribunal. Part of the team's findings was that Mr. Kabuga's wife had invested in real estate and rents collected were being submitted to a local financial institution. Further investigations revealed that those funds had been transferred and credited to the wife's bank account in Belgium, where Mr. Kabuga's wife and children reside and hold Belgian passports. Our attorney general promptly obtained orders from the high court to freeze the bank accounts in Kenya.

Joint investigations by Kenya and the ICTR into the alleged sightings of the fugitive in Kenya have yielded no fruit thus far. The joint investigation team continues to carry out its mandate with the full support of the Kenyan Government. The particulars related to the investigations and actions undertaken are known to

the Tribunal. Kenya therefore finds the persistent allegations that it shows complacency with regard to apprehending Mr. Kabuga misleading, malicious and lacking in merit. In this regard, we urge the ICTR and international agencies to broaden the search for Mr. Kabuga to include other jurisdictions.

In conclusion, my delegation reaffirms Kenya's commitment to upholding the rule of law. Kenya will continue to act closely with the ICTR in that regard.

Mr. Vilović (Croatia): Let me start by expressing our appreciation to the Presidents of the two Tribunals, Judges Byron and Robinson, for their comprehensive and informative reports on the actions taken and progress made during the period from 1 August 2009 to 31 July 2010 (A/65/188 and A/65/205). My delegation aligns itself with the statement delivered by the representative of the European Union. However, I wish here to stress a few more items.

The Tribunals' determined performance, aimed at the unwavering prosecution of perpetrators of war crimes, crimes against humanity or genocide, has served as a basis for an emerging culture of accountability and a constant reminder that severe crimes, regardless of who has committed them, will not go unpunished. Croatia welcomes the continued commitment of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY) to its completion strategy and the final conclusion of its work in accordance with its mandate and without sacrificing due process. In that context, Croatia supports endeavours by the President of the Court to further streamline and improve the Court's core functions in order to expedite its proceedings and make its work more efficient.

International ad hoc tribunals were never meant to replace national courts, but rather to strengthen them and help them properly fulfil their allotted functions. In that light and in accordance with relevant resolutions of the Security Council, Croatia supports calls on the ICTY to transfer all appropriate cases to competent national jurisdictions, thereby contributing to the success of the Tribunal's exit strategy. My country has clearly demonstrated its ability to conduct trials of even the most sensitive cases, including the one case that was transferred to it by the ICTY.

We are glad that the present report has confirmed Croatia's general responsiveness to the needs of the Office of the Prosecutor. Croatia is strongly committed to full and open cooperation with the Tribunal, as demonstrated by the close and intense working relationship established between the Office of the Prosecutor and the Croatian Government at all levels. We have taken concrete administrative, investigative and judicial measures in order to meet the requests of the Office of the Prosecutor to the maximum extent possible. These efforts were further recognized by the recent decision of Trial Chamber I in the *Gotovina et al.* case.

Let me express once again the deep concern of my country with the fact that two accused, Ratko Mladić and Goran Hadžić, have continued to evade justice for much too long — in the case of Mladić, for more than 15 years. It must be made absolutely clear that the trial of those fugitives does not hinge on the Tribunal's completion strategy dates, and we urge Member States to do all within their power to ensure, as a matter of urgency, the apprehension of those fugitives and their transfer to the Court's custody. We fully share the President of the Court's view that the failure to bring those persons to justice will leave a stain on the contribution of the United Nations to peacebuilding in the former Yugoslavia and that it remains of grave concern to the proper administration of justice.

Croatia welcomes further cooperation between countries in the region in the processing of persons indicted for war crimes, as well as interaction between the Tribunal and the Office of the Prosecutor and competent national authorities responsible for war crimes prosecutions. In that context, we welcome the liaison prosecutors project funded by the European Union, which is designed to bring prosecutors from the region to work as liaison prosecutors within the Office of the Prosecutor.

Let me also express here our satisfaction with President of the Court Judge Robinson's visit to Croatia at the invitation of the President of the Supreme Court of Croatia. On that occasion Judge Robinson also met with the President of Croatia, the Prime Minister, the Minister of Justice and other key national and international actors and discussed many important issues connected with Croatia's processing of domestic war crimes cases, the launching of the Legacy Project, the announcement of plans for a new

Legacy Conference, the status of the residual mechanism and plans to establish ICTY information centres in the region.

Finally, Croatia welcomes the work on residual issues by the Security Council Informal Working Group on International Tribunals, including trials of the remaining high-profile fugitives. Croatia is particularly interested in finding just and practical solutions for discharging the Tribunals' residual functions related to the future of the Tribunals' archives, to liaison with the Office of the Prosecutor, and to exploring the modalities of serving the sentences. In that regard, we have found particularly rewarding the open and transparent discussions on those issues that have taken place under the Austrian chairmanship of the Working Group. We are following that discussion closely and stand ready to lend our full support and cooperation to the efforts aimed at finding the most appropriate and cost-effective solutions to these issues.

The Acting President (*spoke in Spanish*): We have heard the last speaker in the debate on the two agenda items. May I take it that it is the wish of the General Assembly to conclude its consideration of agenda items 71 and 72?

It was so decided.

Programme of work

The Acting President (*spoke in Spanish*): I should like to inform members that the plenary meeting devoted to the follow-up to the International Year of Microcredit, originally scheduled for Monday, 11 October 2010 at 10 a.m., under agenda item 24 (a), "Eradication of poverty and other development issues: implementation of the Second United Nations Decade for the Eradication of Poverty (2008-2017)", has been rescheduled to Wednesday, 13 October 2010, at 10 a.m. in the General Assembly Hall.

The meeting rose at 12.30 p.m.